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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,354	10/29/2001	Mario Mainetti	BA-22795	3766

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BUCKNAM AND ARCHER
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

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EXAMINER

MUSSER, BARBARA J

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,354

Applicant(s)

MAINETTI, MARIO

Examiner

Barbara J. Musser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-5, drawn to a garment hanger, classified in class 223, subclass 85.
 - II. Claims 6-9, drawn to forming a garment hanger, classified in class 156, subclass 251.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process could be used to make a different product such as any item with a weld seam around the edges like a seat sealed packet containing desiccant or pills.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation between James G. Smith and Joseph J. Orlando on 10/25/02 a provisional election was made with traverse to prosecute the invention of group II, claims 6-9. Affirmation of this election must be made by applicant

in replying to this Office action. Claims 1-5 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 6-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what features are required by the claims as they are method claims dependent on an article claim. It is suggested the limitations of the article claims be added to the method claims and these claims be re-written in independent form.

Regarding claim 6, it is unclear what is intended by the claim since although a process claim, it appears to have no process limitations. "Realizing the welding of the strip" is only a part of the preamble, and does not constitute a process step.

Regarding claim 6, it is assumed that all the limitations of claim 1 are present therein. Therefore, these refer to claim 6 though the line numbers refer to claim 1. It is unclear what is meant by a peripheral cord. It is unclear if this is a strip of plastic in addition to the soft material or is simply the edge of the soft material. For the purposes of examination, it is assumed to be the edge of the soft material. It is unclear what is meant by "of the first order" in line 5. It is unclear what is meant by "preloaded" in line 6. It is unclear what is meant by "a second portion" in lines 11-12 as no first portion is

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present. Claim 1 recites the limitation "the user" in line 112, "the spring power" in line 13, "the inside part" in line 14, "the first portion" in line 14, "the underneath support" in line 16, and "the external profile" in line 18. There is insufficient antecedent basis for these limitations in the claim.

Regarding the actual language of claim 6, it is unclear what is meant by "a base support of the lever device". It is suggested this is intended to be --for the lever device-- . It is unclear what is meant by "a cutting group".

Claim 7 recites the limitation "the welding head" in line 5, "the shaped electrode" in line 6, "the blade" in lines 8-9, "the cutting group" in line 9, and "the remaining band" in line 10. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchard(U.S Patent 5,398,854) in view of Hall et al.(U.S. Patent 6,009,925), and Ueda(U.S. Patent 5,269,872).

Blanchard discloses a garment hanger comprising two clamps made of lever devices having a strip of soft material on at least one of the levers, the two levers co-acting to hold a garment therebetween.(Figure 1) The reference does not disclose how

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the soft material is applied to the levers. Hall et al. discloses a method of welding plastics together wherein a seam is formed around the edges of the materials being welded using a base on which the material to be welded is laid and a welding head which welds the layers together.(Col. 5, ll. 61-Col 6, ll. 5) It would have been obvious to one of ordinary skill in the art at the time the invention was made to weld the edges of the strip of Blanchard to the levers using a welding head and corresponding base support since Hall et al. discloses it is well-known to weld around the edge of a material using a welding head and support base to provide excellent seam integrity while increasing production rates(Col. 5, ll. 27-39)

The references do not disclose using a continuous strip of material and cutting it to form the strips of soft material. The use of a continuous process rather than a discontinuous process is well-known in general as shown particularly by Ueda which discloses using a continuous strip to form discrete items using welding by cutting during the welding step.(Figure 1) It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the batch process of Hall et al. into a continuous process when making the articles of Blanchard using a continuous roll of material and a cutting head since it is a common practice in the art to make a batch process into a continuous process and since Ueda discloses making discrete items in a continuous process which uses welding and then cutting the items from the strip.

Regarding claim 7, Blanchard discloses a step.(46)

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Regarding claims 8 and 9, while the references only disclose forming the strip of material on one lever at a time, one in the art would appreciate that forming multiple levers would increase production speed and would do so for this reason.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Barbara J. Musser** whose telephone number is **(703)-305-1352**. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



BJM
June 30, 2003



SAM CHUAN YAO
PRIMARY EXAMINER